

(c) The rate in a municipality that borders on the Gulf of Mexico and has a population of more than 250,000 *or in a municipality with a population of less than 5,000 adjacent to a home-rule city with a population of less than 80,000* may not exceed nine percent of the price paid for a room.

SECTION 3. This Act takes effect September 1, 2003.

Passed by the House on April 25, 2003, by a non-record vote; the House concurred in Senate amendments to H.B. No. 1459 on May 26, 2003, by a non-record vote; passed by the Senate, with amendments, on May 24, 2003, by a viva-voce vote.

Approved June 18, 2003.

Effective September 1, 2003.

## CHAPTER 248

### H.B. No. 1541

#### AN ACT

relating to the general powers and authority of water districts.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 388.005(a), Health and Safety Code, is amended to read as follows:

(a) In this section, "political subdivision" means:

- (1) an affected county; or
- (2) any political subdivision *in a nonattainment area or in an affected county* other than:

(A) a school district; or

(B) a district as defined by Section 36.001 or 49.001, Water Code, that had a total annual electricity expense of less than \$200,000 in the previous fiscal year of the district ~~[in a nonattainment area or in an affected county]~~.

SECTION 2. Section 43.0751(a)(3), Local Government Code, is amended to read as follows:

(3) "Strategic partnership agreement" means a written agreement *described by this section* between a municipality and a district ~~[that provides terms and conditions under which services will be provided and funded by the parties to the agreement and under which the district will continue to exist for an extended period of time if the land within the district is annexed for limited or full purposes by the municipality]~~.

SECTION 3. Section 43.0751, Local Government Code, is amended by amending Subsections (d), (f), and (i) and adding Subsection (q) to read as follows:

(d) Before the governing body of a municipality or a district adopts a strategic partnership agreement, it shall conduct two public hearings at which members of the public who wish to present testimony or evidence regarding the proposed agreement shall be given the opportunity to do so. Notice of public hearings conducted by the governing body of a municipality under this subsection shall be published in a newspaper of general circulation in the municipality and in the district. The notice must be in the format prescribed by Section 43.123(b) and must be published at least once on or after the 20th day before each date. Notice of public hearings conducted by the governing body of a district under this subsection shall be given in accordance with the district's notification procedures for other matters of public importance. Any notice of a public hearing conducted under this subsection shall contain a statement of the purpose of the hearing, the date, time, and place of the hearing, and the location where copies of the proposed agreement may be obtained prior to the hearing. The governing bodies of a municipality and a district may conduct joint public hearings under this subsection, provided that at least one public hearing is conducted within the district. ~~[A municipality may combine the public hearings and notices required by this subsection with the public hearings and notices required by Section 43.124.]~~

(f) A strategic partnership agreement may provide for the following:

(1) limited-purpose annexation of the district *on terms acceptable to the municipality and the district* [~~under the provisions of Subchapter F~~] provided that the district shall continue in existence during the period of limited-purpose annexation;

(2) *limited-purpose annexation of a district located in a county with a population of more than 3.3 million:*

(A) *only if the municipality does not require services, permits, or inspections or impose fees for services, permits, or inspections within the district; and*

(B) *provided that this subsection does not prevent the municipality from providing services within the district if:*

(i) *the provision of services is specified and agreed to in* [~~such amendments to the timing requirements of Sections 43.123(d)(2) and 43.127(b) as may be necessary or convenient to effectuate the purposes of~~] *the agreement;*

(ii) *the provision of services is not solely the result of a regulatory plan adopted by the municipality in connection with the limited-purpose annexation of the district; and*

(iii) *the district has obtained the authorization of the governmental entity currently providing the service;*

(3) payments by the municipality to the district for services provided by the district;

(4) annexation of any commercial property in a district for full purposes by the municipality, notwithstanding any other provision of this code or the Water Code, except for the obligation of the municipality to provide, directly or through agreement with other units of government, full provision of municipal services to annexed territory, in lieu of any annexation of residential property or payment of any fee on residential property in lieu of annexation of residential property in the district authorized by this subsection;

(5) a full-purpose annexation provision *on terms acceptable to the municipality and the district* [~~that specifies one of the following:~~

~~[(A) the date on which the land included within the district's boundaries shall be converted from the municipality's limited-purpose jurisdiction to its full purpose jurisdiction, provided that such date shall not be later than 10 years after the effective date of the strategic partnership agreement; or~~

~~[(B)(i) terms for payment of an annual fee to the municipality by the district in lieu of full purpose annexation, the form in which each such payment must be tendered, a method of calculating the fee, and the date by which each such payment must be made; failure by a district to timely make an annual payment in lieu of full purpose annexation in the amount and form required by a strategic partnership agreement shall be the only ground for termination of the agreement with respect to annexation at the option of the municipality;~~

~~[(ii) to determine a reasonable fee to be derived from residential property in a district, the municipality or the district may request a cost-of-service study by an independent third party agreeable to both parties if cost-of-service data prepared by the municipality is not acceptable. Both parties shall be equally responsible for the cost of the study, which shall include an evaluation of the estimated annual cost of providing municipal services to the residential portion of the district over the next 10 years and the estimated annual amount of ad valorem taxes from residential property the municipality would receive on full purpose annexation of the district over the next 10 years. The fee shall not exceed the estimated annual amount of residential ad valorem taxes that would be derived by full purpose annexation of the district, less the estimated annual amount required to provide municipal services to the residential property in the district if annexed for full purposes. A fee determined through this methodology is subject to renegotiation every 10 years at the request of either party to the agreement following the same procedure used to set the fee in the original agreement. This methodology does not apply to fees from commercial property];~~

(6) conversion of the district to a limited district including some or all of the land included within the boundaries of the district, which conversion shall be effective on the full-purpose annexation conversion date established under Subdivision (5) ~~[(5)(A)]~~;

(7) agreements existing between districts and governmental bodies and private providers of municipal services in existence on the date a municipality evidences its intention by adopting a resolution to negotiate for a strategic partnership agreement with the district shall be continued and provision made for modifications to such existing agreements; and

(8) such other lawful terms that the parties consider appropriate.

(i) A ~~[district that is negotiating for or that has adopted a]~~ strategic partnership agreement ~~may provide that the district~~ shall not incur additional debt, liabilities, or obligations, to construct additional utility facilities, or sell or otherwise transfer property without prior approval of the municipality~~[, which approval shall not be unreasonably withheld or delayed. An action taken in violation of this subsection is void].~~

*(q) Subchapter F does not apply to a limited-purpose annexation under a strategic partnership agreement.*

SECTION 4. Section 43.123, Local Government Code, is amended by adding Subsection (e) to read as follows:

*(e) The deadline imposed by Subsection (d)(2) does not apply to an area that:*

*(1) is owned by the United States, this state, or a political subdivision of this state;*

*(2) is located outside the boundaries of a water control and improvement district or a municipal utility district; and*

*(3) is annexed for limited purposes in connection with a strategic partnership agreement under Section 43.0751.*

SECTION 5. Section 43.127(a), Local Government Code, is amended to read as follows:

*(a) Except as provided by Section 43.123(e), on [On] or before the date prescribed by the regulatory plan under Section 43.123(d)(2), the municipality must annex the area for full purposes. This requirement may be waived and the date for full-purpose annexation postponed by written agreement between the municipality and a majority of the affected landowners. A written agreement to waive the municipality's obligation to annex the area for full purposes binds all future owners of land annexed for limited purposes pursuant to that waiver.*

SECTION 6. Section 49.052, Water Code, is amended by adding Subsections (h) and (i) to read as follows:

*(h) This subsection applies only to a district that is located wholly within the boundaries of a municipality with a population of more than 1.5 million, that is governed by Chapter 375, Local Government Code, and that is governed by an appointed board consisting of nine or more members. Notwithstanding Subsection (f) or (g), a person is considered to have resigned from serving as a member of the board if the person fails to attend three consecutive meetings of the board. The remaining board members by majority vote may waive the resignation under this subsection if fairness requires that the absences be excused on the basis of illness or other good cause.*

*(i) Notwithstanding any other law, a director is eligible to serve on the board of a district governed by Chapter 375, Local Government Code, regardless of the municipality in which the director resides, if:*

*(1) the district is located within the boundaries of a municipality with a population of more than 1.8 million; and*

*(2) all or a part of the district is located more than five miles from the downtown city hall of that municipality.*

SECTION 7. Section 49.067, Water Code, is amended to read as follows:

Sec. 49.067. CONTRACTS. *(a) A district shall contract, and be contracted with, in the name of the district.*

*(b) Notwithstanding any other law, a contract for technical, scientific, legal, fiscal, or other professional services must be approved by the board unless specifically delegated by*

*board action. The terms and conditions of such a contract, including the terms for payment, are subject to the decision of the board unless specifically delegated by board action. The board through such action cannot abrogate its fiscal responsibility.*

SECTION 8. Section 49.068, Water Code, is amended to read as follows:

Sec. 49.068. **CONTRACTS WITH GOVERNMENTAL AGENCIES.** (a) The provisions of this chapter pertaining to bids and the Local Government Code notwithstanding, a district may purchase property from any governmental entity by negotiated contract without the necessity of securing appraisals or advertising for bids.

(b) *The provisions of other law or a home-rule municipal charter notwithstanding, a municipality may contract with a district. The term of a contract under this subsection may be of unlimited duration.*

SECTION 9. Section 49.103, Water Code, is amended by adding Subsection (h) to read as follows:

(h) *If authorized by the board in the proceedings calling a director election, the secretary of the board or the secretary's designee, on receipt of the certification required by Section 2.052(b), Election Code, shall post notice that the election is not to be held. The notice must be posted, on or before the commencement of early voting, at each polling place that would have been used in the election. If the notice is timely posted:*

(1) *the board or the board's designee is not required to:*

(A) *post or publish notice of the election;*

(B) *prepare or print ballots and election materials; or*

(C) *hold early and regular voting; and*

(2) *the board shall meet at the earliest practicable time to declare each unopposed candidate elected to office.*

SECTION 10. Section 49.106(a), Water Code, is amended to read as follows:

(a) Before an election is held to authorize the issuance of bonds, other than refunding bonds, there shall be filed in the office of the district and open to inspection by the public an engineer's report covering the land, improvements, facilities, plants, equipment, and appliances to be purchased or constructed and their estimated cost, together with maps, plats, profiles, and data fully showing and explaining the report. *The engineer's report is not:*

(1) *part of the proposition or propositions to be voted on; or*

(2) *a contract with the voters.*

SECTION 11. Sections 49.153(a) and (e), Water Code, are amended to read as follows:

(a) The board, without the necessity of an election, may borrow money on negotiable or nonnegotiable notes of the district to be paid solely from the revenues derived from the ownership of all or any designated part of the district's works, plants, improvements, facilities, or equipment after deduction of the reasonable cost of maintaining and operating the facilities.

(e) Subsection (c) does not apply to:

(1) a note issued to and approved by the:

(A) Farmers Home Administration;

(B) United States Department of Agriculture; ~~or~~

(C) Texas Water Development Board; or

(D) North American Development Bank; or

(2) a district described by Section 49.181(h).

SECTION 12. Section 49.181(a), Water Code, is amended to read as follows:

(a) A district may not issue bonds unless the commission determines that the project to be financed by the bonds is feasible and issues an order approving the issuance of the bonds. This section does not apply to:

(1) *refunding bonds if the commission issued an order approving the issuance of the bonds or notes that originally financed the project;*

(2) *refunding bonds that are issued by a district under an agreement between the district and a municipality allowing the issuance of the district's bonds to refund bonds issued by the municipality to pay the cost of financing facilities; or*

(3) *bonds issued to and approved by the Farmers Home Administration, the United States Department of Agriculture, the North American Development Bank, or the Texas Water Development Board.*

SECTION 13. Sections 49.183(a) and (b), Water Code, are amended to read as follows:

(a) *Except for refunding bonds, or bonds sold to a state or federal agency or to the North American Development Bank, bonds issued by a district shall be sold after advertising for and receiving competitive sealed bids and shall be awarded to the bidder whose bid produces the lowest net effective interest rate to the district.*

(b) *Except for refunding bonds, or bonds sold to a state or federal agency or to the North American Development Bank, before any bonds are sold by a district, the board shall publish an appropriate notice of the sale:*

(1) *at least one time not less than 10 days before the date of sale in a newspaper of general circulation in the county or counties in which the district is located; and*

(2) *at least one time in one or more recognized financial publications of general circulation in the state as approved by the state attorney general.*

SECTION 14. Section 49.194, Water Code, is amended by adding Subsection (g) to read as follows:

(g) *A submission to the executive director required by this section may be made electronically.*

SECTION 15. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2125 to read as follows:

*Sec. 49.2125. FEES AND OTHER CHARGES OF CERTAIN REGIONAL WATER AUTHORITIES AFTER ANNEXATION. (a) This section applies to a regional water authority that:*

(1) *was established after January 1, 1999;*

(2) *is located entirely within a county with a population greater than 3.4 million according to the 2000 federal decennial census; and*

(3) *has a population greater than 375,000 according to the 2000 federal decennial census.*

(b) *Notwithstanding any other law, except to the extent an authority to which this section applies agrees in writing, a municipality's annexation of territory within the authority has no effect on the authority's ability to assess and collect inside the territory annexed by the municipality the types of fees, rates, charges, or special assessments that the authority was assessing and collecting at the time the municipality initiated the annexation; provided, however, that the authority's ability to assess and collect such fees, rates, charges, or special assessments shall terminate on the later to occur of (i) the date of final payment or defeasance of any bonds or other indebtedness, including any refunding bonds, that are secured by such fees, rates, charges, or special assessments or (ii) the date that the authority no longer provides services inside the annexed territory. An authority to which this section applies shall continue to provide services to the annexed territory in accordance with contracts in effect at the time of the annexation unless a written agreement between the governing body of the authority and the governing body of the municipality provides otherwise.*

SECTION 16. Sections 49.226(a), (c), and (d), Water Code, are amended to read as follows:

(a) *Any personal property valued at more than \$300 or any land or interest in land owned by the district which is found by the board to be surplus and is not needed by the district may be sold under order of the board either by public or private sale, or the land, interest in land, or personal property may be exchanged for other land, interest in land, or personal property needed by the district. Except as provided in Subsection (b), land, interest in land, or personal property must be exchanged for like fair market value, which value may be*

determined by the district. *In connection with the sale of surplus land, the board, at its discretion, may impose restrictions on the development and use of the land.*

(c) Before ~~either~~ a public ~~or a private~~ sale of real property, the district shall give notice of the intent to sell by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district.

(d) If the district has outstanding bonds secured by a pledge of tax revenues, the proceeds of the sale of property *originally acquired with bond proceeds* shall be:

(1) applied to retire outstanding bonds of the district; *or*

(2) *held and treated as surplus bond proceeds and spent only as provided by the rules of the commission relating to surplus bond proceeds.*

SECTION 17. Section 49.234(a), Water Code, as added by Section 15, Chapter 1423, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

(a) A district or water supply corporation that operates a wastewater collection system to serve land within its boundaries by rule may prohibit the installation of private on-site wastewater holding or treatment facilities on land within the district that is not served by the district's or corporation's wastewater collection system. A district or corporation that has not received funding under Subchapter K, Chapter 17, may not require a property owner who has ~~already~~ installed an on-site wastewater holding or treatment facility *before the adoption of the rule* to connect to the district's or corporation's wastewater collection system.

SECTION 18. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.236 to read as follows:

*Sec. 49.236. NOTICE OF TAX HEARING. (a) Before the board adopts an ad valorem tax rate for the district for debt service, operation and maintenance purposes, or contract purposes, the board shall give notice of each meeting of the board at which the adoption of a tax rate will be considered. The notice must:*

*(1) contain a statement in substantially the following form:*

**“NOTICE OF PUBLIC HEARING ON TAX RATE**

*“The (name of the district) will hold a public hearing on a proposed tax rate for the tax year (year of tax levy) on (date and time) at (meeting place). Your individual taxes may increase or decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.”; and*

*(2) contain the following information:*

*(A) the district's total adopted tax rate for the preceding year and the proposed tax rate, expressed as an amount per \$100;*

*(B) the difference, expressed as an amount per \$100 and as a percent increase or decrease, as applicable, in the proposed tax rate compared to the adopted tax rate for the preceding year;*

*(C) the average appraised value of a residence homestead in the district in the preceding year and in the current year; the district's total homestead exemption, other than an exemption available only to disabled persons or persons 65 years of age or older, applicable to that appraised value in each of those years; and the average taxable value of a residence homestead in the district in each of those years, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;*

*(D) the amount of tax that would have been imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;*

*(E) the amount of tax that would be imposed by the district in the current year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, if the proposed tax rate is adopted; and*

(F) the difference between the amounts of tax calculated under Paragraphs (D) and (E), expressed in dollars and cents and described as the annual increase or decrease, as applicable, in the tax to be imposed by the district on the average residence homestead in the district in the current year if the proposed tax rate is adopted.

(b) Notice of the hearing shall be:

(1) published at least once in a newspaper having general circulation in the district at least seven days before the date of the hearing; or

(2) mailed to each owner of taxable property in the district, at the address for notice shown on the most recently certified tax roll of the district, at least 10 days before the date of the hearing.

SECTION 19. Section 49.271, Water Code, is amended by adding Subsection (e) to read as follows:

(e) A district contract for construction work may include economic incentives for early completion of the work or economic disincentives for late completion of the work.

SECTION 20. Section 49.273, Water Code, is amended by adding Subsection (l) to read as follows:

(l) The board is not required to advertise or seek competitive bids for security or surveillance systems or components of or additions to district facilities relating to security or surveillance, including systems used for the prevention of terrorist or criminal acts and incidents or acts of war, if the board finds that doing so would compromise the safety and security of district facilities or residents.

SECTION 21. Section 49.278(a), Water Code, is amended to read as follows:

(a) This subchapter does not apply to:

(1) equipment, materials, or machinery purchased by the district at an auction that is open to the public;

(2) contracts for personal or professional services or for a utility service operator;

(3) contracts made by a district engaged in the distribution and sale of electric energy to the public;

(4) contracts for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition; ~~or~~

(5) high technology procurements; or

(6) contracts for the purchase of electricity for use by the district.

SECTION 22. Section 49.303, Water Code, is amended to read as follows:

Sec. 49.303. **EXCLUDING LAND OR OTHER PROPERTY FROM DISTRICT.** (a) A district may exclude land or other property from the district under this subchapter if the district has no outstanding bonds payable in whole or in part from taxes.

(b) If a district has no outstanding ~~[Before a district orders an election for the authorization of]~~ bonds payable in whole or in part from taxes, the board may, on its own motion, call a hearing on the question of the exclusion of land or other property from the district under the provisions of this subchapter ~~[section and Sections 49.304 through 49.307]~~, if the exclusions are practicable, just, or desirable.

~~[(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of any landowner or property owner in the district filed with the secretary of the board before the first election on the question of whether bonds should be issued payable in whole or in part from taxes is ordered.]~~

(c) If a district has no outstanding bonds payable in whole or in part from taxes, the ~~[The]~~ board may hold a hearing on the exclusion of land or other property from the district ~~[if the district has not issued bonds payable in whole or in part from taxes, and]~~ if a landowner or property owner submits a signed petition to the secretary of the board evidencing the consent of the owners of a majority of the acreage proposed to be excluded and a majority of the taxable property in the district, as reflected by the most recent certified tax roll of the district.

(d) A district that has previously held an election at which approval was given for the issuance of bonds payable in whole or in part from taxes may not rely on that election for the issuance of the bonds if after the bond election, but before the bonds are issued, land or other property is excluded from the district as provided by this subchapter. The board must call and hold another bond election and receive voter approval ~~[as provided by this subchapter]~~ before issuing those bonds.

*(e) A district may not exclude land or other property from the district under this section if the district has issued bonds payable in whole or in part from taxes and those bonds are outstanding.*

SECTION 23. Section 49.304(a), Water Code, is amended to read as follows:

(a) If the board determines that an exclusion hearing should be held as provided by Section 49.303~~(a) or (e), or if a written petition requesting an exclusion hearing is filed with the secretary of the board as provided by Section 49.303(b)]~~, the board shall give notice of the time and place of a hearing to announce its own conclusions relating to land or other property to be excluded and to receive petitions for exclusion of land or other property.

SECTION 24. Sections 49.351(a), (k), and (l), Water Code, are amended to read as follows:

(a) A district providing potable water or sewer service to household users may establish, operate, and maintain a fire department to perform all fire-fighting *services* ~~[activities]~~ within the district as provided in this subchapter and may issue bonds or impose a mandatory fee, with voter approval, for financing a plan approved in accordance with this section, including the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply.

(k) In this section, “fire-fighting *services* ~~[activities]~~” means all of the customary and usual *services* ~~[activities]~~ of a fire department, including fire suppression, fire prevention, training, safety education, maintenance, communications, medical emergency services, photography, and administration.

(l) Notwithstanding the requirements of Subsections (a)–(j), a district providing potable water or sewer service to household users may as part of its billing process collect from its customers a voluntary contribution on behalf of organizations providing fire-fighting *services* ~~[activities]~~ to the district. A district that chooses to collect a voluntary contribution under this subsection must give reasonable notice to its customers that the contribution is voluntary. Water and sewer service may not be terminated as a result of failure to pay the voluntary contribution.

SECTION 25. Section 49.455(d), Water Code, is amended to read as follows:

(d) The information form required by this section shall be filed with the county clerk ~~[within 48 hours after the effective date of this section or]~~ within 48 hours after the district is officially created~~[, whichever time comes first]~~. For purposes of this section, the words “officially created” mean the date and hour in which the results of the election to confirm the creation of the district are declared.

SECTION 26. Section 53.029, Water Code, is amended by adding Subsection (e) to read as follows:

*(e) A district that has adopted the rights, authority, privileges, and functions of a road district in the manner provided by Subsection (c) may, following approval of a construction contract by the district’s governing body, reimburse expenditures as provided by Sections 257.003(a) and (b), Transportation Code, without any additional approval under Section 257.003, Transportation Code.*

SECTION 27. Section 54.201(b), Water Code, is amended to read as follows:

(b) A district is authorized to purchase, construct, acquire, own, operate, maintain, repair, improve, or extend inside and outside its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary to accomplish the purposes of the *district authorized by the constitution, this code, or other law* ~~[its creation]~~, including all works, improvements, facilities, plants, equipment, and appliances incident, helpful, or necessary to:



- (1) supply water for municipal uses, domestic uses, power, and commercial purposes and all other beneficial uses or controls;
- (2) collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state;
- (3) gather, conduct, divert, and control local storm water or other local harmful excesses of water in a district;
- (4) irrigate the land in a district;
- (5) alter land elevation in a district where it is needed;
- (6) navigate coastal and inland waters of the district; and

(7) provide parks and recreational facilities for the inhabitants in the district, subject to the provisions of Chapter 49 [Subchapter I of this chapter].

SECTION 28. Subchapter D, Chapter 54, Water Code, is amended by adding Section 54.2052 to read as follows:

*Sec. 54.2052. PLUMBING CODE. Notwithstanding any other law, a district is not required to adopt a plumbing code. A district may adopt and enforce one or more plumbing codes meeting the standards and requirements of the rules and laws of this state and may amend any code adopted to conform to local concerns if the amendment does not substantially vary from rules or laws of this state. If a municipal regulation conflicts with a district regulation, the municipal regulation prevails.*

SECTION 29. Section 54.234, Water Code, is amended to read as follows:

*Sec. 54.234. ACQUIRING ROAD UTILITY DISTRICT POWERS. Any district, which has the power to levy taxes, may[, with the approval of the commission,] petition the commission [Texas Transportation Commission] to acquire the powers granted to road utility districts operating pursuant to Chapter 441, Transportation Code, under the authority of Article III, Section 52, Texas Constitution. As soon as practicable after such petition has been filed with the commission [Texas Transportation Commission], the commission [Texas Transportation Commission] shall conduct a hearing in accordance with Chapter 441, Transportation Code, and] shall issue an order [in accordance with Chapter 441, Transportation Code,] either approving or denying such petition. [Any district so petitioning the Texas Transportation Commission shall conform to the rules applicable to the creation and administration of such districts as provided by Chapter 441, Transportation Code.] In the event of any conflict between the provisions of the Water Code and the general laws of this state applicable to the district and the provisions of Chapter 441, Transportation Code, the provisions of the Water Code and the general laws of this state applicable to the district shall prevail.*

SECTION 30. Section 54.503, Water Code, is amended to read as follows:

*Sec. 54.503. MANNER OF REPAYMENT OF BONDS. The board may provide for the payment of principal of and interest and redemption price on the bonds in any one of the following manners:*

- (1) from the levy and collection of ad valorem taxes on all taxable property within the district;
- (2) by pledging all or any part of the designated revenues to result from the ownership or operation of the district's works, improvements, facilities, plants, equipment, and appliances or under specific contracts for the period of time the board determines;
- (3) *by pledging all or part of any funds or revenues available to the district; or*
- (4) a combination of the sources set forth in Subdivisions (1), [and] (2), and (3) of this section.

SECTION 31. Section 54.505, Water Code, is amended to read as follows:

*Sec. 54.505. ELECTION ON TAX BONDS. Bonds payable solely from revenues may be issued by resolution or order of the board without an election, but no bonds, except refunding bonds, payable wholly or partially from ad valorem taxes shall be issued until authorized by a majority vote of the resident electors of the district voting in an election called and held for that purpose. An election is not required to pledge revenues to the payment of bonds.*

SECTION 32. Sections 54.739 and 54.744, Water Code, are amended to read as follows:

Sec. 54.739. **SUBSTITUTING LAND OF EQUAL ~~[ACREAGE AND]~~ VALUE.** After the district is organized and acquires facilities with which to function for the purposes for which it was organized, and votes, issues and sells bonds for such purposes, land within the district boundaries subject to taxation that does not need or utilize the services of the district may be excluded and other land not within the boundaries of the district may be included within the boundaries of the district *without impairment of the security for payment of the bonds or invalidation of any prior bond election*, as provided by ~~[the provisions of]~~ this section and Sections 54.740 ~~[54.741]~~ through 54.747 ~~[54.748 subject to commission approval]~~.

Sec. 54.744. **IMPAIRMENT OF SECURITY.** For purposes of the board's consideration of the applications, the lands proposed for inclusion shall be deemed to be sufficient to avoid an impairment of the security for payment of obligations of the district if:

(1) according to the *most recent [county] tax roll of the district or the most recently certified estimates of taxable value from the chief appraiser of the appropriate appraisal district [rolls]*, the taxable value of such included lands equals or exceeds the taxable value of the excluded lands;

(2) *either the estimated costs of providing district facilities and services to such included lands is equal to or less than the estimated costs of providing district facilities and services to the excluded lands or any increased estimated costs of providing district facilities and services to the included land, as determined by the district's engineer, can be amortized at prevailing bond interest rates and maturity schedules and the prevailing debt service tax rate of the district, as determined by the district's professional financial advisor, when applied to the increase in taxable value of the included land over the taxable value of the excluded land; and*

(3) the district's outstanding bonds or contract obligations are payable in whole or in part by a pledge of net revenues from the ownership or operation of the district's facilities, and the projected net revenues to be derived from the lands to be included during the succeeding 12-month period, as determined by the district's engineer, equals or exceeds the projected net revenues that would otherwise have been derived from the lands to be excluded during the same period.

SECTION 33. Subchapter H, Chapter 54, Water Code, is amended by adding Sections 54.748 and 54.749 to read as follows:

Sec. 54.748. **EXCLUSION OF LAND FOR FAILURE TO PROVIDE SUFFICIENT SERVICES; BONDS OUTSTANDING.** (a) *This section applies only to a district that has a total area of more than 5,000 acres.*

(b) *The board shall call a hearing on the exclusion of land from the district on a written petition filed with the secretary of the board by a landowner whose land has been included in and taxable by the district for more than 28 years if any bonds issued by the district payable in whole or in part from taxes of the district are outstanding and the petition:*

(1) *includes a signed petition evidencing the consent of the owners of a majority of the acreage proposed to be excluded, as reflected by the most recent certified tax roll of the district;*

(2) *includes a claim that the district has not provided the land with utility services;*

(3) *describes the property to be excluded;*

(4) *provides, at the petitioner's expense, facts necessary for the board to make the findings required by Subsection (c); and*

(5) *is filed before August 31, 2005.*

(c) *The board may exclude land under this section only on finding that:*

(1) *the district has never provided utility services to the land described by the petition;*

(2) *the district has imposed a tax on the land for more than 28 years;*

(3) *all taxes the district has levied and assessed against the land and all fees and assessments the district has imposed against the land or the owner that are due and payable on or before the date of the petition are fully paid; and*

(4) *the executive director has reviewed the economic impact of the proposed exclusion of land and does not oppose the exclusion.*

(d) *If evidence presented at the hearing conclusively demonstrates that the requirements and grounds for exclusion described by Subsections (b) and (c) have been met, the board may enter an order excluding the land from the district. If the board enters an order excluding the land, the board shall redefine in the order the boundaries of the district to embrace all land not excluded.*

(e) *A copy of an order excluding land and redefining the boundaries of the district shall be filed in the deed records of the county in which the district is located.*

(f) *The exclusion of land under this section does not impair the rights of holders of any outstanding bonds, warrants, or other certificates of indebtedness of the district.*

(g) *After any land is excluded under this section, the district may issue any unissued additional debt approved by the voters of the district before exclusion of the land under this section without holding a new election. Additional debt issued after land is excluded from the district may not be payable from and does not create a lien against the taxable value of the excluded land.*

(h) *For purposes of this section and Section 54.749, "land" includes any improvements to the land, and when used in the context of property taxes, "land" has the meaning assigned to "real property" by Section 1.04, Tax Code.*

**Sec. 54.749. TAX LIABILITY OF EXCLUDED LAND; BONDS OUTSTANDING.** (a) *Land excluded from the district under Section 54.748 that is pledged as security for any outstanding debt of the district remains pledged for its pro rata share of the debt until final payment is made. The district shall continue to levy and collect taxes on the excluded land at the same rate levied on land remaining in the district until the amount of taxes collected from the excluded land equals the land's pro rata share of the district's debt outstanding at the time the land was excluded from the district.*

(b) *The district shall apply the taxes collected on the excluded land only to the payment of the excluded land's pro rata share of the debt.*

**SECTION 34.** Section 57.015(b), Water Code, is amended to read as follows:

(b) The notice shall be posted at the courthouse door and at a place ~~[four different places]~~ inside the proposed district. If the district is located in more than one county, the person posting the notice shall post a copy at the courthouse door in each county in which any portion of the proposed district is located and at a place ~~[four separate places]~~ inside the boundaries of that portion of the district located in each county. The notice shall be posted for at least 10 days before the date of the hearing.

**SECTION 35.** Section 57.092(a), Water Code, is amended to read as follows:

(a) The district may enter into all necessary and proper contracts and employ all persons and means necessary to purchase, acquire, build, construct, complete, carry out, maintain, protect, and, in case of necessity, add to and rebuild all works and improvements necessary or proper to fully accomplish the purposes of the district, *including the reclamation of land within the district* ~~[a reclamation plan lawfully adopted for the district]~~.

**SECTION 36.** Section 57.104, Water Code, is amended to read as follows:

**Sec. 57.104. CONSTRUCTION OF ~~[DUTY TO CONSTRUCT APPROVED]~~ IMPROVEMENTS.** The district *may* ~~[shall]~~ construct all improvements *necessary or convenient to accomplish the purposes of the district* ~~[included in the plan of reclamation approved by the commission]~~.

**SECTION 37.** Section 57.108(b), Water Code, is amended to read as follows:

(b) Contracts may be awarded or entered in sections for the purpose of the purchase, acquisition, construction, and improvement of pumping equipment, reservoirs, culverts, bridges, and drainage improvements as these may become necessary~~[, but as funds are available, the district shall comply with Section 57.104]~~.

**SECTION 38.** The heading to Section 57.116, Water Code, is amended to read as follows:

**Sec. 57.116. ENGINEER'S CONSTRUCTION REPORT.**

**SECTION 39.** Section 57.116(a), Water Code, is amended to read as follows:

(a) As ~~[the] work [on the plan of reclamation]~~ progresses *on the district's improvements*, the engineer shall make a report to the board, showing in detail whether or not the contract is being fulfilled.

SECTION 40. Section 57.117(b), Water Code, is amended to read as follows:

(b) If the executive director finds that the work has not been done in strict accordance with the contract, he shall officially certify this fact, and in the certificate he shall state where the contractor has failed to comply with the *contract* ~~[approved plan of reclamation]~~.

SECTION 41. Section 57.118, Water Code, is amended to read as follows:

Sec. 57.118. COMPLIANCE WITH CONTRACT. After the board receives a report that the contractor has failed to comply with the contract, it shall demand that the contractor comply with the requirements of the *contract* ~~[approved plan of reclamation]~~ at his own expense, and no further accounts, claims, or vouchers submitted by the contractor shall be approved or paid until the contractor complies with the requirements of the executive director by constructing the improvement in accordance with the *contract* ~~[plan of reclamation]~~.

SECTION 42. The heading to Subchapter E, Chapter 57, Water Code, is amended to read as follows:

#### SUBCHAPTER E. ENGINEER'S REPORT ~~[PLAN OF RECLAMATION]~~

SECTION 43. Sections 57.177(a) and (c), Water Code, are amended to read as follows:

(a) If the district wants to carry out its *purposes* ~~[plan of reclamation]~~ without issuing bonds, the board may arrange for contributions from landowners or other sources to provide the funds required to complete the improvements.

(c) If the district creates an indebtedness under this section, the indebtedness may not be more than:

(1) the cost of construction of *the* improvements included in the *engineer's report* ~~[plan of reclamation]~~;

(2) the cost ~~[as approved by the commission]~~ of maintaining the improvements for two years; and

(3) an additional amount equal to 10 percent to meet emergencies, modifications, and changes lawfully made, plus damages awarded against the district.

SECTION 44. Section 57.208(b), Water Code, is amended to read as follows:

(b) The bonds shall be known as "Levee Improvement Bonds" ~~[and shall state on their face the purpose for which they are issued]~~.

SECTION 45. Section 57.216, Water Code, is amended to read as follows:

Sec. 57.216. PROVIDING FOR ADDITIONAL FUNDS. (a) If the improvements in the *engineer's report* ~~[plan of reclamation adopted for the district]~~ are insufficient to reclaim all of the land and other property inside the district, extensive repairs or additions to the improvements are necessary, or additional funds are needed to complete improvements, the board may provide additional funds for the district by following the provisions of this chapter for raising funds ~~[for the original plan of reclamation]~~.

(b) If the board creates additional indebtedness or issues additional bonds, the indebtedness or bonds are subject to the provisions of this chapter relating to the issuance of bonds. ~~[The new or amended plan of reclamation must be approved by the commission.]~~

SECTION 46. Section 57.260(a), Water Code, is amended to read as follows:

(a) If a district levies taxes on the benefit basis, the commissioners court of each county in which any portion of that district is located shall levy and have assessed and collected taxes on all taxable property inside the district, based on the net benefits which the commissioners of appraisal find will accrue to each piece of property from the *improvements described in the engineer's report* ~~[completion of the plan of reclamation]~~ or other authorized *improvements* ~~[improvement]~~.

SECTION 47. Section 57.261, Water Code, is amended to read as follows:

Sec. 57.261. APPOINTMENT OF COMMISSIONERS OF APPRAISEMENT. *The* ~~[After the plan of reclamation is approved and adopted, the]~~ commissioners court of the county of jurisdiction in a district levying taxes on the benefit basis shall appoint three disinterested commissioners, known as "commissioners of appraisement."

SECTION 48. Sections 57.265(c) and (d), Water Code, are amended to read as follows:

(c) The commissioners of appraisement shall view:

- (1) the land inside the district;
- (2) other land which will be affected by the *engineer's report* ~~[plan of reclamation]~~ if carried out;
- (3) all public roads, railroads, rights-of-way, and other property or improvements located on the land; and
- (4) land inside or outside the district which may be acquired under the provisions of this chapter for any purpose connected with or incident to carrying out the *engineer's report* ~~[plan of reclamation]~~.

(d) The commissioners of appraisement shall assess the amounts of benefits and all damages that will accrue to any tract of land inside the district or any land outside the district which may be affected by the *engineer's report* ~~[plan of reclamation]~~, or any public highway, railroad, right-of-way, roadway, or other property.

SECTION 49. Section 57.266(a), Water Code, is amended to read as follows:

(a) The commissioners of appraisement shall prepare a report of their findings. The report shall include:

- (1) the name of the owner of each piece of property examined and assessed;
- (2) a description which will identify each piece of property; and
- (3) the value of all property to be taken or acquired for rights-of-way or any other purposes connected with carrying out the *engineer's report* ~~[plan of reclamation as finally approved by the commission]~~.

SECTION 50. Sections 57.267(b), (c), and (d), Water Code, are amended to read as follows:

(b) The notice shall be published in a newspaper published in each county in which any part of the district is located, or in which any land lies that will be in any way affected by the proposed *engineer's report* ~~[plan of reclamation]~~. The notice shall be published once a week for two consecutive weeks before the date of the hearing.

(c) The notice shall be in substantially the following form:

To the owners and all other persons having any interest in land lying in \_\_\_\_ County, take notice, that a copy of the *engineer's report* ~~[plan of reclamation]~~ of the \_\_\_\_ Levee Improvement District has been filed *in the district's office* ~~[with the county clerk of this county]~~ and that the commissioners of appraisement have been appointed to assess benefits and damages accruing to land or other property inside or outside the levee *improvement* district which will be benefited, taken, damaged, or affected in some way by the carrying out of the *engineer's report* ~~[plan of reclamation]~~. The report of the commissioners of appraisement has been filed in my office at \_\_\_\_, and all interested persons may examine the report and make an objection to all or any part of the report. A person who claims damage to his land and to whose land no damages have been assessed in the report must file a claim for damage in my office on or before \_\_\_\_, [19]\_\_\_\_. A person who fails to make an objection or to file a claim for damages is deemed to have waived his right to object or claim damages. The commissioners of appraisement will meet on \_\_\_\_, [19]\_\_\_\_, to hear and act on objections to their report and claims for damages.

\_\_\_\_\_  
Secretary, Board of Directors

\_\_\_\_\_  
Levee Improvement District

(d) The secretary shall mail written notice to each person whose property is listed in the report of the commissioners of appraisement, if the office address is known. This notice shall state in substance:

(1) that the report of the commissioners of appraisal assessing benefits and damages accruing to land and other property because of the *engineer's report* [~~plan of reclamation~~] for the district has been filed in the *district's* [~~secretary's~~] office;

(2) that all persons interested may examine the report and make objections to it in whole or in part; and

(3) that the commissioners of appraisal will meet on the day and at the place named to hear and act on objections to the report.

SECTION 51. Sections 57.269(a) and (b), Water Code, are amended to read as follows:

(a) An owner of land or other property affected by the report of the commissioners of appraisal or by the *engineer's report* [~~plan of reclamation~~] may file an objection to any or all parts of the report of the commissioners of appraisal at or before the hearing on the report.

(b) A person on whose land no damages have been assessed and who believes that his land will be damaged by prosecution of the *engineer's report* [~~plan of reclamation~~] may file with the secretary of the board a claim for damages.

SECTION 52. Sections 57.270(e), (j), and (k), Water Code, are amended to read as follows:

(e) The secretary in not less than five days after the appeal is filed shall send to the district clerk:

(1) the *engineer's report* [~~plan of reclamation~~] or a certified copy of it;

(2) a transcript of that part of the commissioners of appraisal's report affecting the lands concerned in the appeal;

(3) a transcript of the claim for damages; and

(4) a transcript of the action of the commissioners of appraisal on the claim.

(j) No appeal may delay carrying out the *engineer's report* [~~plan of reclamation~~], and if the board pays to the district clerk the amount of damages awarded by the commissioners of appraisal to a claimant who is appealing their decree, and if the board makes bond to pay to the claimant any additional amount that he may be awarded on his appeal, title to the condemned property that is the subject of the appeal vests in the district, and the district is entitled to immediate possession.

(k) No person may claim damages against the district, its board, officers, or agents because of the prosecution of the *engineer's report* [~~plan of reclamation~~] if he owns or has an interest in land in a county in which [~~a copy of the plan of reclamation has been filed and in which~~] notice has been published of the hearing before the commissioners of appraisal, and he has failed to file a claim for damages or an objection to the damages assessed by the commissioners of appraisal against his land, or if he has filed a claim or objection but has failed to appeal from an adverse ruling on his claim or objection.

SECTION 53. Section 57.273(b), Water Code, is amended to read as follows:

(b) If the *engineer's report* [~~plan of reclamation~~] is changed or modified, or if extensive repairs or additions to the *engineer's report* [~~plan of reclamation~~] are desired, the board shall file a petition with the commissioners court describing the changes, modifications, repairs, or additions.

SECTION 54. Section 57.274(b), Water Code, is amended to read as follows:

(b) The commissioners court shall order a reassessment of benefits if it finds that the aggregate amount of assessed benefits as shown by the previous final judgment and decree is insufficient to carry out the original *engineer's report* [~~plan of reclamation~~] or changes, repairs, or additions to the report [~~plan~~] or there has been a material change in the relative value of the benefits conferred on the property in the district, or for some reason the assessment of benefits is inadequate or inequitable.

SECTION 55. Section 57.275(d), Water Code, is amended to read as follows:

(d) If the *engineer's report* [~~plan of reclamation~~] is modified, or if extensive repairs or additions are made, the provisions of this section apply to districts that levy taxes on the ad valorem basis, but the commissioners of appraisal shall assess only the damages which

will accrue to the property inside or outside the district as a result of the changes in the report ~~plan~~.

SECTION 56. Section 67.010(d), Water Code, is amended to read as follows:

(d) A political subdivision may contract with a corporation under Section 402.014, Local Government Code, to carry out this chapter. *If a corporation issues bonds secured by a contract entered into under Section 402.014, Local Government Code, the corporation is considered to be acting for or on behalf of that political subdivision for the purposes of Section 1201.002(1), Government Code. A political subdivision is authorized to approve by ordinance, resolution, or order the articles of incorporation and the bylaws of a corporation that is created for the purpose of constructing facilities under a contract as provided by Section 402.014, Local Government Code.*

SECTION 57. The following provisions are repealed:

- (1) Sections 54.0163(e), 54.508, 57.094, 57.108(a), 57.154(b), and 57.156, Water Code;
- (2) Section 402.908, Local Government Code; and
- (3) Subchapter C, Chapter 441, Transportation Code.

SECTION 58. (a) Except as provided by this section, a provision of a strategic partnership agreement entered into before December 31, 2003, that does not comply with Section 43.0751(f)(2), Local Government Code, as amended by this Act, is not enforceable after December 31, 2003, to the extent of the noncompliance.

(b) A permit issued before December 31, 2003, by a municipality with a population of 1.9 million or more remains valid until its expiration and shall be recognized by the county.

(c) A municipality with a population of 1.9 million or more may not enforce, under a strategic partnership agreement, a code provision that would otherwise require a building permit from the municipality after the effective date of this Act.

(d) This section does not affect the validity or enforceability of a provision of a strategic partnership agreement that requires services or imposes fees if the services or fees relate to emergency services that were specifically requested by the board of a municipal utility district or if the services or fees have been approved by a state agency or a political subdivision that is not a party to the strategic partnership agreement.

SECTION 59. (a) Section 43.127(a), Local Government Code, as amended by this Act, applies to an area described by Section 43.123(e), Local Government Code, as added by this Act, that is annexed for limited purposes in connection with a strategic partnership agreement before, on, or after September 1, 2003.

(b) For the 2003 tax year, the change in law made by Section 49.236, Water Code, applies only to a conservation and reclamation district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, and governed by Chapter 49, Water Code, that adopts its tax rate on or after September 1, 2003. For the 2003 tax year, a district that adopts its tax rate before September 1, 2003, is governed by the law as it existed prior to the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 60. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

Passed by the House on May 10, 2003: Yeas 134, Nays 0, 3 present, not voting; the House refused to concur in Senate amendments to H.B. No. 1541 on May 29, 2003, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 1541 on June 1, 2003: Yeas 148, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 27, 2003: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 1541 on June 1, 2003: Yeas 31, Nays 0.

Approved June 18, 2003.

Effective June 18, 2003.